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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 INDEX NO: 13-cv-5387

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4
5 CARL ORLANDO, JR., on behalf of himself
6 and other similarly situated
7 individuals,

8
9 Plaintiffs,

10
11 vs.

12
13 LIBERTY ASHES, INC., FRANCESCO BELLINO,
14 MICHAEL BELLINO, JR., STEPHEN BELLINO,
15 and MICHAEL BELLINO,

16
17 Defendants.

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18
19 April 21, 2016
20 1:06 p.m.

21
22 Deposition of ROBERT CRISTINA,
23 held at the offices of Joseph &
24 Kirschenbaum LLP, 32 Broadway, New York,
25 New York, pursuant to Subpoena, before
Wendy D. Boskind, a Registered
Professional Reporter and Notary Public
of the State of New York.

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 JOSEPH & KIRSCHENBAUM LLP</p> <p>5 Attorneys for Plaintiffs</p> <p>6 32 Broadway</p> <p>7 Suite 601</p> <p>8 New York, New York 10004</p> <p>9 BY: DENISE SCHULMAN, ESQ.</p> <p>10 (212) 688-5640</p> <p>11 denise@hllp.com</p> <p>12 -and-</p> <p>13 LAW OFFICE OF FINN W. DUSENBERY</p> <p>14 26 Broadway</p> <p>15 21st Floor</p> <p>16 New York, New York 10004</p> <p>17 BY: FINN W. DUSENBERY, ESQ.</p> <p>18 (212) 583-0030</p> <p>19 finn@dusenberylaw.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 IT IS HEREBY STIPULATED AND</p> <p>3 AGREED by and between counsel for the</p> <p>4 respective parties hereto, that the</p> <p>5 filing, sealing and certification of</p> <p>6 the within deposition shall be and</p> <p>7 the same are hereby waived;</p> <p>8 IT IS FURTHER STIPULATED AND</p> <p>9 AGREED that all objections, except as</p> <p>10 to the form of the question, shall be</p> <p>11 reserved to the time of trial;</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that the within deposition may</p> <p>14 be signed before any Notary Public</p> <p>15 with the same force and effect as if</p> <p>16 signed and sworn to before the Court.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 APPEARANCES: (Cont'd)</p> <p>3</p> <p>4 TRIVELLA & FORTE, LLP</p> <p>5 Attorneys for Defendants</p> <p>6 1311 Mamaroneck Avenue</p> <p>7 Suite 170</p> <p>8 White Plains, New York 10605</p> <p>9 BY: CHRISTOPHER A. SMITH, ESQ.</p> <p>10 (914) 843-9100</p> <p>11 111csmith111@gmail.com</p> <p>12</p> <p>13</p> <p>14 JOSEPH V. SCHETTINO, ESQ.</p> <p>15 Attorney for the Witness</p> <p>16 437 Rockaway Avenue</p> <p>17 Valley Stream, New York 11581</p> <p>18 (516) 825-4466</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 ROBERT CRISTINA,</p> <p>3 business address at 3 Railroad Place,</p> <p>4 Maspeth, New York 11378, having been</p> <p>5 first duly sworn by a notary public</p> <p>6 of the State of New York, (Wendy D.</p> <p>7 Boskind, RPR), was examined and</p> <p>8 testified as follows:</p> <p>9</p> <p>10 EXAMINATION</p> <p>11 BY MS. SCHULMAN:</p> <p>12 Q. Good afternoon, Mr. Cristina.</p> <p>13 My name is Denise Schulman. Seated next</p> <p>14 to me is Finn Dusenbery. We represent</p> <p>15 the Plaintiffs in this lawsuit against</p> <p>16 Liberty Ashes.</p> <p>17 You are here on behalf of</p> <p>18 Empire State Cardboard Paper Recycling</p> <p>19 Corporation; correct?</p> <p>20 A. Yes.</p> <p>21 Q. I'm just going to go over a</p> <p>22 couple of instructions, before we get</p> <p>23 started with this deposition.</p> <p>24 A. Okay.</p> <p>25 Q. I'm going to ask you a number</p>

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<p style="text-align: right;">Page 14</p> <p>1 Cristina</p> <p>2 product.</p> <p>3 Q. Is there a document that</p> <p>4 would reflect when you purchased plastics</p> <p>5 from Liberty?</p> <p>6 A. What's ever in those invoices</p> <p>7 that I gave you, which there should be a</p> <p>8 line item for the type of material that</p> <p>9 was delivered.</p> <p>10 Q. Would plastics be listed as</p> <p>11 "mixed recyclables"?</p> <p>12 A. Yes.</p> <p>13 Q. Has Empire been purchasing</p> <p>14 recyclables from Liberty since at least</p> <p>15 2009?</p> <p>16 A. I don't remember when we</p> <p>17 started, but it goes back a ways.</p> <p>18 Q. Who sets the price that you</p> <p>19 pay Liberty for the recyclables it brings</p> <p>20 you?</p> <p>21 A. My brother, Mike.</p> <p>22 Q. How often does the price</p> <p>23 change?</p> <p>24 A. Weekly, if there are changes</p> <p>25 at all.</p>	<p style="text-align: right;">Page 16</p> <p>1 Cristina</p> <p>2 Q. Okay.</p> <p>3 A. Friday afternoon.</p> <p>4 Q. You're sending the price for</p> <p>5 the following week?</p> <p>6 A. Yes.</p> <p>7 Q. Does that fax just list the</p> <p>8 price for different materials or is there</p> <p>9 any other information contained?</p> <p>10 A. It's just a cardboard price.</p> <p>11 Q. Does Empire ever inform</p> <p>12 Liberty about the price changes by phone?</p> <p>13 A. No, not that I'm aware of.</p> <p>14 Q. Has Liberty ever had a</p> <p>15 contract with Empire?</p> <p>16 A. No.</p> <p>17 Q. So Liberty has never been</p> <p>18 obligated to deliver a certain amount of</p> <p>19 cardboard to Empire.</p> <p>20 A. That's correct.</p> <p>21 Q. And does the amount of</p> <p>22 card-- well, strike that.</p> <p>23 Does Liberty make deliveries</p> <p>24 to Empire every day?</p> <p>25 A. I don't know if it's every</p>
<p style="text-align: right;">Page 15</p> <p>1 Cristina</p> <p>2 Q. So there are weeks you could</p> <p>3 go a month and the price could be the</p> <p>4 same?</p> <p>5 A. Exactly.</p> <p>6 Q. But it wouldn't change more</p> <p>7 than once a week?</p> <p>8 A. Correct.</p> <p>9 Q. And the prices would be</p> <p>10 reflected in the invoices?</p> <p>11 A. Yes.</p> <p>12 Q. Does Liberty have any input</p> <p>13 in the price?</p> <p>14 A. No.</p> <p>15 Q. Does Empire inform Liberty</p> <p>16 when the price changes?</p> <p>17 A. Yes.</p> <p>18 Q. How?</p> <p>19 A. Usually, by fax or e-mail.</p> <p>20 Most likely -- most of the</p> <p>21 time, it's every week on a -- through</p> <p>22 fax.</p> <p>23 Q. Is there a certain day and</p> <p>24 time?</p> <p>25 A. Usually, on a Friday.</p>	<p style="text-align: right;">Page 17</p> <p>1 Cristina</p> <p>2 day, but it's pretty regular.</p> <p>3 Q. Multiple times a week they</p> <p>4 come.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Is there -- they could</p> <p>7 come every day, if they wanted, it just</p> <p>8 depends on what they have; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 We're open Monday through</p> <p>12 Saturday.</p> <p>13 Q. And what hours are you open?</p> <p>14 A. We're open 24 hours, Monday</p> <p>15 through Saturday.</p> <p>16 Q. Does the amount of cardboard</p> <p>17 that Liberty delivers to Empire vary from</p> <p>18 day to day?</p> <p>19 A. Yes.</p> <p>20 Q. Does the amount of cardboard</p> <p>21 that Empire receives from all sources</p> <p>22 vary on a daily basis, as well?</p> <p>23 A. Yes.</p> <p>24 Q. Has Liberty ever tried to</p> <p>25 deliver materials to Empire that Empire</p>

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<p style="text-align: right;">Page 38</p> <p>1 Cristina</p> <p>2 5th, 2016?</p> <p>3 A. I suppose, yes, according to</p> <p>4 the date.</p> <p>5 Q. And why did you write this?</p> <p>6 A. Got a call from Liberty,</p> <p>7 asking us for a certification that the</p> <p>8 material gets recycled out of -- I don't</p> <p>9 remember if it was out of the state or</p> <p>10 out of the country.</p> <p>11 Q. Who did you speak to?</p> <p>12 A. Steve Bellino.</p> <p>13 Q. Is that the first</p> <p>14 conversation about that topic that you</p> <p>15 recall having with him?</p> <p>16 A. I don't remember if that's</p> <p>17 the first one.</p> <p>18 It might have happened in the</p> <p>19 past, but --</p> <p>20 Q. But you don't specifically</p> <p>21 recall another conversation like that.</p> <p>22 A. No.</p> <p>23 Q. Okay, and what did you say to</p> <p>24 him?</p> <p>25 A. I said: No problem. All our</p>	<p style="text-align: right;">Page 40</p> <p>1 Cristina</p> <p>2 Q. Well, I'm just asking if</p> <p>3 you've ever spoken to any other Liberty</p> <p>4 representatives.</p> <p>5 A. I've spoke to his brother,</p> <p>6 Mike Bellino.</p> <p>7 Q. Okay.</p> <p>8 A. And I'm not saying I spoke to</p> <p>9 him about this, (indicating), in</p> <p>10 particular --</p> <p>11 Q. Right.</p> <p>12 A. -- but in the past, and to</p> <p>13 his sons, they're on the truck, they come</p> <p>14 to the facility, I say hello.</p> <p>15 Q. Okay. Do you recall ever</p> <p>16 having a conversation with Michael</p> <p>17 Bellino, Steve's brother, about the</p> <p>18 ultimate destination of the materials</p> <p>19 that Liberty brings to Empire?</p> <p>20 A. No.</p> <p>21 Q. Do you send -- does all of</p> <p>22 the cardboard and paper from Empire go to</p> <p>23 destinations in China?</p> <p>24 A. As far as I know, and we ship</p> <p>25 out, that's what it says on the booking</p>
<p style="text-align: right;">Page 39</p> <p>1 Cristina</p> <p>2 material gets shipped out to China. We</p> <p>3 don't deal with any -- we don't ship in</p> <p>4 the domestic.</p> <p>5 Q. How long did the conversation</p> <p>6 last?</p> <p>7 A. I don't know.</p> <p>8 Not long, I guess, he was</p> <p>9 looking for a letter.</p> <p>10 Q. Have you described everything</p> <p>11 you remember about the conversation?</p> <p>12 A. I don't really recall,</p> <p>13 remember the conversation, other than he</p> <p>14 needed a proof that the material was sent</p> <p>15 out of the country, I guess.</p> <p>16 Q. Did he tell you why he needed</p> <p>17 that?</p> <p>18 A. No.</p> <p>19 Q. Have you ever spoken to him</p> <p>20 about this lawsuit?</p> <p>21 A. No.</p> <p>22 Q. Is he your main contact at</p> <p>23 Liberty?</p> <p>24 A. I don't -- yeah, I guess,</p> <p>25 he's the owner.</p>	<p style="text-align: right;">Page 41</p> <p>1 Cristina</p> <p>2 number -- on the booking (indicating)</p> <p>3 instructions, but, once it leaves my</p> <p>4 facility, who knows where it goes --</p> <p>5 (gesturing).</p> <p>6 Q. If you turn to the second</p> <p>7 page, Bates stamp CEF 603, can you tell</p> <p>8 me what this document is?</p> <p>9 A. Well, this one's not stamped.</p> <p>10 Q. It is, (indicating), on the</p> <p>11 bottom right-hand corner.</p> <p>12 A. Oh, this one -- yeah, yeah,</p> <p>13 yeah, yeah.</p> <p>14 MR. SCHETTINO: That little</p> <p>15 thing, (indicating).</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. SCHETTINO: You need a</p> <p>18 magnifying glass.</p> <p>19 THE WITNESS: Yeah.</p> <p>20 Q. Can you tell me what this</p> <p>21 document is?</p> <p>22 A. This is the booking</p> <p>23 instructions from the broker.</p> <p>24 Q. So this is a type of document</p> <p>25 that the broker's driver hands to Empire?</p>

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